United Nations S/AC.37/2009/(1455)/3

Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 3 December 2009 from the Permanent Mission of Saint Lucia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Saint Lucia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and has the honour to refer to resolution 1455 (2003) and Saint Lucia's report on the implementation of counter-terrorism measures pursuant to paragraphs 6 and 12 of that resolution.

The Permanent Mission of Saint Lucia has the further honour to transmit the above-mentioned report of the Government of Saint Lucia (see annex).

09-63558 (E) 111209

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Annex to the note verbale dated 3 December 2009 from the Permanent Mission of Saint Lucia to the United Nations addressed to the Chairman of the Committee

Report of Saint Lucia on the implementation of counter-terrorism measures pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

I. Introduction

1. In Saint Lucia, there have been no experiences of any Al-Qaida or Al-Qaida associated activity. Similarly, there have been no reports of any terrorism related activity linked to the Taliban and Osama bin Laden and their associates.

   Recognizing that Saint Lucia's economy can be very fragile should any such activity be allowed to infiltrate the country and the region, we are committed towards the continued fight against terrorism and terrorism related activities.

II. Consolidated List

2. Saint Lucia is yet to incorporate legislation which deals specifically with the Consolidated List of the 1267 Committee.

   In December 2008, a commencement date was ordered in relation to the Anti-terrorism Act No. 36 of 2003. The Anti-terrorism Act makes specific reference to 13 of the international counter-terrorism instruments and protocols. These are as follows:

   (*a*) Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963

   (*b*) Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970

   (*c*) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971

   (*d*) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973

   (*e*) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979

   (*f*) Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980

   (*g*) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988

(*h*) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988

(*i*) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988

(*j*) Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991

(*k*) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997

(*l*) International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999

(*m*) The Inter-American Convention Against Terrorism, adopted by the Organization of American States General Assembly in Barbados on 3 June 2002.

The Act creates the following offences under Part II:

- *Provision or collection of property to commit terrorist acts*
- *Provision of services for commission of terrorist acts*
- *Use of property for commission of terrorist acts*
- *Arrangements for retention or control of terrorist property*
- *Dealing with terrorist property*
- *Soliciting and giving of support to terrorist groups or for the commission of terrorist acts*
- *Harbouring of persons committing terrorist acts*
- *Provision of devices to terrorist groups*
- *Recruitment of persons to be members of terrorist groups or to participate in terrorist acts*
- *Provision of training and instruction to terrorist groups and persons committing terrorist acts*
- *Incitement, promotion or solicitation of property for the commission of terrorist acts*
- *Providing facilities in support of terrorist acts*
- *Conspiracy to commit offences under this Act*
- *Membership of terrorist groups*
- *Arrangement of meetings in support of terrorist groups*
- *Participation in the commission of offences under this Act.*

Cabinet has agreed to the signing and ratification of the United Nations Convention against Transnational Organized Crime. The legislation that shall give effect to that Convention has gone through the first reading at Parliament.

There are several other pieces of legislation which Saint Lucia can use in its fight against terrorism should the need arise:

- *The Criminal Code Cap 3.01*
- *The Proceeds of Crime Act Cap 3.04*
- *The Money Laundering (Prevention) Act Cap 12.20*
- *The Mutual Assistance in Criminal Matters Act Cap 3.03.*

3. To date has not been implemented. However, technical assistance shall be required to develop procedures to fully implement the Palermo Convention, especially with regards to the freezing of terrorist assets.

4. None.

5. None.

6. Not applicable.

7. Not applicable.

8. The Anti-terrorism Act No. 36 of 2003, which commenced in December 2008, created several of the offences previously highlighted, the penalty for which ranges from fifteen to twenty-five years.

III. Freezing of financial and economic assets

9. There are currently no reports of funds or financial assets of the listed individuals and entities whose funds have been frozen.

Notwithstanding, the Cabinet of Saint Lucia has agreed to the ratification of the Palermo Convention and for it to be given the force of law. The Convention will assist in formalizing and coordinating seizures, forfeitures, and confiscation provisions with other countries.

10. No legislation yet.

11. Financial institutions are encouraged to develop and implement strategies for the reporting of suspicious transactions. The Revised Money Laundering (Prevention) Act makes provisions for financial institutions to report complex, unusual or large transactions. The definition of transaction record under the Act has been extended to include the business correspondent relating to the transaction, all documents relating to the background and the purpose of the transaction.

The Revised Money Laundering (Prevention) Act allows for the Financial Intelligence Authority to undertake inspections and audits to ensure compliance with measures aimed at countering money-laundering.

Section 10 of the Money Laundering (Prevention) Act requires the reporting of suspicious transactions where there are reasonable grounds to suspect that a transaction involves proceeds of a proscribed offence. It is noted that the list of predicate offences has been expanded under the Money Laundering (Prevention) Act and includes the offence of terrorism.

12. To date, no assets of individual or entities listed in the 1267 List have been located or frozen in Saint Lucia.

13. None.

14. Saint Lucia is currently reviewing its terrorism legislation with a view to becoming fully compliant in that regard. There is and would still be a need to examine and analyse the technical logistics of the operational capabilities of the institutional support in that regard.

IV. Travel bans

15. The Immigration Ordinance, Chapter 76 of the Revised Laws of Saint Lucia, is the principal act which governs the movement of persons at the port of entry. The Act provides for the criteria to deem an individual a prohibited immigrant and for other related offences. The Passports Act Cap 10.03 controls and allows for the mechanism for the issuance of passports in Saint Lucia.

16. Border control has been developed in Saint Lucia to the extent that the List is being used manually.

17. Currently, it is not possible to search the List of individuals and entities electronically at all ports of entry.

18. No one to date has been stopped at Saint Lucia's border or in transit, as a result of the person's name appearing on the Consolidated List.

19. None of the names appearing on the lists has ever been discovered in Saint Lucia in the case of a person applying for a visa.

V. Arms embargo

20. Saint Lucia does not manufacture and/or export arms or its associated technology. However, the authorities continue to be vigilant and continue to monitor, with their limited resources, the use of firearms and related material under the Criminal Code Cap 3.01, Firearms Act Cap 14.12, the Pesticides and Toxic Chemical Control Act Cap 11.15, the Explosives Act Cap 14.08 and the Anti-terrorism Act No. 36 of 2003.

21-24. As stipulated above.

VI. Assistance and conclusions

25. Sensitization programmes on anti-money-laundering and terrorism financing.

Border control training for Customs, Police and Immigration with respect to the Consolidated List is required. The manner in which the List should be applied, utilized and referred to.

Continued training for our Financial Intelligence Authority.

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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 4 December 2009 from the Permanent Mission of Nigeria to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Federal Republic of Nigeria to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and has the honour to submit to the Committee Nigeria's report to the United Nations Analytical Support and Sanctions Monitoring Team (see annex).

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Annex to the note verbale dated 4 December 2009 from the Permanent Mission of Nigeria to the United Nations addressed to the Chairman of the Committee

Report of Nigeria to the Analytical Support and Sanctions Monitoring Team

Preamble

The Government of Nigeria has made vigorous efforts to collaborate and cooperate regionally and globally to strengthen the fight against terrorism and terrorism financing. Pursuant to the foregoing, Nigeria has ratified the following international instruments against terrorism and organized crime:

(a) Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)

(b) Convention for the Suppression of Unlawful Seizure of Aircraft (1970)

(c) Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971)

(d) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1988)

(e) Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988)

(f) Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)

(g) International Convention for the Suppression of the Financing of Terrorism (1999)

(h) United Nations Security Council resolution 1373 (2001)

(i) Protocol Against the Illicit Manufacturing of and Trafficking in Firearms and their Parts and Components and Ammunition, supplementing the United Nations Convention Against Transnational Organized Crime (2001).

Other conventions ratified relating to terrorism and terrorism financing are the following:

(i) United Nations Convention Against Transnational Organized Crime (2000)

(ii) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (2000)

(iii) Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime (2000)

(iv) United Nations Convention Against Corruption (2003).

Nigeria has also adopted the following resolutions and declarations made by the African Union to combat terrorism:

(a) The OAU Convention on the Prevention and Combating of Terrorism, made in Algiers in July 1999

(b) The Declaration on Terrorism, made in Senegal in 2001

(c) The Plan of Action for the Prevention and Combating of Terrorism by the Inter-Governmental High-Level Meeting of the African Union in September 2002 in Algiers.

In realization of the African Union Plan of Action, the 53 member nations were required to establish a forum to facilitate the timely exchange and sharing of ideas and intelligence in combating terrorism within the continent. This led to the establishment of the African Centre for the Study and Research on Terrorism (ACSRT).

It mandated member countries to establish national focal points on terrorism. In compliance, the Government of Nigeria established the National Focal Point which is coordinated by the Department of State Services (DSS). The National Focal Point membership consists of Government officials from the following stakeholder ministries, departments and agencies:

- Department of State Services (DSS)
- The Economic and Financial Crimes Commission (EFCC)
- Federal Ministry of Justice (FMOJ)
- Defence Headquarters (DHQ)
- Defence Intelligence Agency (DIA)
- National Drug Law Enforcement Agency (NDLEA)
- The Nigeria Police Force (NPF)
- National Intelligence Agency (NIA)
- Nigeria Immigration Service (NIS)
- Nigeria Customs Service (NCS)
- Nigeria Civil Aviation Authority (NCAA)
- Federal Airports Authority of Nigeria (FAAN)
- Nigeria Ports Authority (NPA)
- The Central Bank of Nigeria (CBN)
- National Emergency Response Agency (NEMA)
- National Agency Against Trafficking in Persons (NAPTIP)
- Corporate Affairs Commission (CAC)
- Nigeria Postal Services (NIPOST)
- Federal Fire Service (FFS)
- Ministry of Transport (MOT)
- Ministry of Solid Minerals Development (MOSMD)
- Ministry of Finance (MOF)
- Ministry of Foreign Affairs (MFA)
- Nigeria Security and Civil Defence Corps (NSCDC)
- Nigerian Financial Intelligence Unit (NFIU)
- Economic Community of West African States (ECOWAS) — Observers
- United Nations Office on Drugs and Crime (UNODC) — Observers
- European Union — Observers

The activities of the National Focal Point include:

(i) Conducting research and analysis on terrorism-related matters to enable provision of a prompt and proactive response to terrorist threats

(ii) Collation, integration and preparation of input provided by the intelligence services with a view to advising the relevant authorities on counter-terrorism policies

(iii) Identifying, penetrating and monitoring of extremist/fundamentalist groups and suspected NGOs with a view to intercepting the recruitment process of terrorists

(iv) Implementation of all policies on counter-terrorism and its financing by monitoring the activities of financial institutions

(v) Developing and maintenance of a national repository database on terrorist groups

(vi) Maintaining and updating of database on the movement and activities of passengers from risk countries

(vii) Maintenance of security watch list on individuals and groups

(viii) Maintenance of close watch and regulation of the use of explosives in liaison with relevant Government agencies or parastatals.

Counter-terrorism efforts in Nigeria and compliance with the United Nations Security Council resolutions

The United Nations Security Council resolutions on counter-terrorism are part of the sanctions regime against terrorism required to be enforced by all Member States in order to prevent and combat terrorism.

Security Council resolutions 1526 (2004) and 1822 (2008) relating to the Consolidated List, arms embargo, assets freeze and travel ban are implemented in Nigeria by various agencies through collaborative efforts as stated below:

(a) Consolidated List

The following core agencies are responsible for monitoring, updating and ensuring compliance with the Consolidated List:

- Central Bank of Nigeria
- Nigerian Financial Intelligence Unit
- Nigeria Immigration Service
- Corporate Affairs Commission
- Nigeria Police Force
- Department of State Services
- Nigeria Security and Civil Defence Corps
- Ministry of Foreign Affairs
- National Intelligence Agency
- Nigeria Customs Service
- National Drug and Law Enforcement Agency.

(i) Central Bank of Nigeria (CBN)

- The Consolidated List is updated and monitored by the Banking Supervision Department (BSD) of the CBN. The BSD checks relevant United Nations websites and also consults the Nigerian Foreign Affairs Ministry in this regard.
- The CBN advises banks and other financial institutions within its supervisory purview on the names of individuals and organizations related to resolutions 1267 (1999) and 1373 (2001).
- Any amendments to the names and deletions on the Consolidated List are brought to the attention of the financial institutions for the purpose of ensuring that transactions involving those individuals and organizations are detected by the institutions and reported to the CBN within one week.
- CBN draws the List to the attention of the relevant institutions and, at the same time, follows up by advising these institutions of any change.
- The financial institutions are required to check their systems at intervals for the names on the Consolidated List and report their observations to the CBN.
- Institutions under the supervisory purview of the CBN are money deposit banks, discount houses, microfinance banks, primary mortgage institutions, finance companies, bureaux de change and development finance institutions.

(ii) Nigerian Financial Intelligence Unit (NFIU)

The NFIU ensures full compliance with the provisions of resolution 1822 (2008) among all financial and designated non-financial institutions in Nigeria. Consequently, the unit engages these institutions on their respective obligations in order to promote effective compliance and enforcement in the overall implementation of the provisions of resolution 1822 (2008).

Furthermore, the NFIU advises regulatory bodies to direct institutions within their purview to be aware and watchful of and to make constant reference to the online United Nations List in the course of their business operations. The efforts of the NFIU have helped to increase awareness, compliance and enforcement of the reporting obligations of the financial and designated non-financial institutions of Nigeria.

In addition to the circulation of hard copies of the Consolidated List, the NFIU frequently advises all stakeholders to always check the online Consolidated List at the United Nations website.

The financial sector operators are largely in compliance with the CBN directive requiring them to render monthly returns to the Nigerian Financial Intelligence Unit.

(iii) Nigeria Immigration Service (NIS)

The Nigeria Immigration Service has commenced the implementation of the e-Gate system at most ports of entry in Nigeria. In addition, the Advance Passenger Information System (APIS) regime is in full operation as the names

of intending passengers are usually verified against the List ahead of arrival into the country.

(iv) Corporate Affairs Commission (CAC)

The CAC makes reference to the Consolidated List before any company or organization is registered.

(v) Nigeria Police Force (NPF)

The INTERPOL Unit attached to the Criminal Investigation Department of the Nigeria Police Force is responsible for maintaining a consolidated list of internationally sanctioned persons. The Unit disseminates information on the list to all police departments and formations for necessary action.

The Anti-Terrorism Squad of the Nigeria Police Force also works in collaboration with the INTERPOL section of the Police and other security agencies, including the United Nations, to ensure full compliance with resolution 1822 (2008).

(vi) Department of State Services (DSS)

By virtue of Instrument No. 1 of 1999, Cap.278, Laws of the Federation (LFN), the DSS is mandated to maintain and periodically update a watch list/database at various travel control posts across the country. It should be noted that the watch list incorporates the Consolidated List.

The Service arrests, detains and confiscates travel documents of individuals or groups that have been placed on the watch list or suspected to have links with any terrorist or terrorist groups.

Also, the Service conducts investigations and vetting of foreign companies seeking registration in Nigeria, as well as foreigners applying for the certificate of naturalization, in collaboration with the Ministry of Interior.

Those seeking refugee/asylum status in Nigeria are checked against the Consolidated List.

(vii) Nigeria Security and Civil Defence Corps (NSCDC)

In its effort to enforce the Consolidated List through its diverse operational networking, the Nigeria Security and Civil Defence Corps has effectively established:

a. Units of counter-terrorism at its national headquarters, State commands, divisional offices, cells and units at local and international airports. These serve as effective positioning for profiling, intelligence-gathering and reporting of findings on people and entities on the Consolidated List.

b. Disaster Management Department which enhances quick response in emergency situations. To this end, the Corps has set up emergency response units in some airports and stationed emergency response ambulances there. It partners with the Nigeria Emergency Management Agency (NEMA) as a measure for counter-terrorism rescue operations. It has participated in search and rescue operations.

The Private Guards Company (PGC) under S.3 1(b)-(d) of 2007 NSCDC Act is controlled by the Corps. Thus, the Corps has brought sanity to bear upon the operations of the private guards industry by successfully training the guards on intelligence-gathering relating to issues of terrorism and profiling questionable acts and behaviour of people who are likely terrorists or agents of people on the Consolidated List.

The Corps is also in partnership with the National Focal Point and constantly updates itself with the current Consolidated List of the United Nations in order to reinvigorate its focus on intelligence-gathering and reporting. The List is distributed to all intelligence and counter-terrorism units in the Corps national headquarters, State commands and divisional offices nationwide.

(b) Assets Freeze

The institutions responsible for asset-freezing are the Federal Ministry of Justice, the Central Bank of Nigeria, the National Drug Law Enforcement Agency, the Economic and Financial Crimes Commission and the Nigerian Financial Intelligence Unit.

(i) Federal Ministry of Justice

The following are laws of the National Assembly that regulate and empower asset-freezing in Nigeria:

a. The Central Bank Act, 2007 and the Banks and Other Financial Institutions Act (BOFIA), 1991 (as amended)

- The operations of the Central Bank of Nigeria (CBN), which is the financial sector regulator, are governed by these laws.
- It regulates all transfers of funds to and from Nigeria. The CBN issues circulars guiding operations of foreign exchange and ensures strict adherence to the Know Your Customer (KYC) Principle and Customer Due Diligence (CDD) practices.

b. Currency Conversion (Freezing Orders) Act

- The CBN gives orders to banks to freeze accounts where there are irregularities in connection with payments, operations, or transactions of any currency conversion operation in Nigeria.

c. The Economic and Financial Crimes Commission (Establishment) Act, 2004

- The EFCC Act establishes a Commission to administer and enforce the provisions of the Act. Section 12(1) (a) of the Act establishes the General and Assets Investigation Unit, which has responsibility for investigating and confiscating assets acquired through the proceeds of crime.
- The offence of terrorism and terrorism financing is criminalized by section 15 of the EFCC Act. It enables the freezing and confiscation of assets of terrorists and their associates. Furthermore, it provides for the conviction of guilty persons by a

competent court of law in Nigeria. A penalty of life imprisonment is prescribed by the Act for convicted persons.

- Section 28 of the Act empowers the EFCC to trace and attach all assets and properties of persons arrested for economic and financial crimes and the application of an interim attachment order from a court, while section 29 provides for an interim forfeiture order.
- Indeed, sections 28 to 32 cover investigation of assets and properties, interim forfeiture orders and offences in relation to forfeiture orders.
- Section 34 of the EFCC Act gives the Commission the power to freeze accounts.
- The Chairman of the Commission or the officer authorized by him may, if satisfied that the money in a suspect's account is made through the commission of an offence under the Act, apply to the court ex parte for power to issue an order addressed to the manager of the bank or any person in control of the financial institution or designated non-financial institution. The freezing order format is contained in Form B of the schedule to the EFCC Act.

d. Money Laundering (Prohibition) Act, 2004

- The provisions of this Act are administered by the Nigerian Financial Intelligence Unit.
- The Act provides for reporting of suspicious transactions and the reporting obligation of individuals, banks and other financial institutions.
- The Act provides that banking secrecy and preservation of customer confidentiality shall not apply to AML/CFT issues.
- It provides for the verification of the identity of customers carrying out financial transactions and the beneficiaries, and ensures retention of records of all financial transactions by financial and non-financial institutions.
- The Act empowers the Federal High Court to grant an order that the funds, accounts or securities of a stopped transaction be frozen if the origin of such funds cannot be ascertained (see sect. 6(7) of the Act).
- The Nigerian Customs Service is required to report any declaration made pursuant to the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act to the CBN and SEC. The CBN and SEC are mandated to forward such reports to the (NFIU/EFCC) weekly.

e. The Corrupt Practices and Other Related Offences Act

- The Act also provides for forfeiture of assets of civil and public servants.

f. National Drug Law Enforcement Agency (NDLEA) Act

- It is clear that trafficking in drugs is at the heart of organized crimes all over the world and that the proceeds of illicit traffic in narcotic drugs are used in financing terrorist activities.
- NDLEA was therefore established to combat all forms of drug crimes and to investigate and bring guilty persons to justice.
- Its functions include adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from drug-related offences or property whose value corresponds to such proceeds.
- The Agency has a General Assets Investigation Unit which investigates assets and properties of persons arrested for committing any offence under the Act.
- Sections 27-33 cover forfeiture of property of convicted persons while sections 34 and 35 deal with investigation of assets and property.
- The NDLEA Chairman may, with the written approval of the Attorney General of the Federation, issue an order to freeze the account of any suspect who has been arrested (see sect. 42 of the Act).

g. The Criminal Code Act

- Sections 62 to 68 of the Criminal Code cover unlawful societies and prescribe the procedure for seizure and disposition of properties belonging to them. It, however, makes no provision for asset-freezing.

(ii) Central Bank of Nigeria (CBN)

- The CBN is also empowered to investigate frozen accounts of individuals and entities on the Consolidated List.
- Once terrorist financing is identified (especially by the financial institutions), the account is recommended for freezing by obtaining a court order by ex parte motion. These funds are held as long as the names of the account holders are on the Consolidated List.
- CBN, via circulars, communicates actions taken to the financial sector immediately upon taking such action.
- CBN also provides clear guidance to the financial institutions holding the targeted funds or other assets concerning their obligations.
- The CBN has effective procedures for considering de-listing requests and for de-freezing the funds or other assets of de-listed persons or entities in a timely manner.
- CBN ensures that such funds are not released to organizations and persons on the Consolidated List.

- There are appropriate procedures through which a person or entity whose funds or other assets have been frozen can challenge such measures in the courts and request a review.
- CBN, the Federal Ministry of Commerce and other stakeholders regulate the movements of funds outside the banking sector vide circulars such as the CBN AML/CFT Compliance Manual.
- CBN cooperates and collaborates with the following in carrying out its duties:
    - National Inter-Ministerial Committee on AML/CFT (comprising AML/CFT stakeholders in Nigeria):
        - It is a platform used to enhance cooperation among stakeholders.
        - The Committee meets quarterly to address fundamental AML/CFT issues, exchanges information and creates the needed synergy to combat money-laundering and terrorism financing.
    - Financial Services Regulation Coordinating Committee (FSRCC) (See sections 43 and 44 of the CBN Act, 2007):
        - Membership of FSRCC includes the CBN, NDIC, Ministry of Finance, NAICOM, SEC and the CAC.
        - It coordinates the supervision of financial institutions in the entire financial sector.
        - It reduces the incidence of arbitrage, created by differing regulations and supervision standards among the supervisory authorities.
    - CBN, NDIC and NFIU conduct routine AML/CFT Inspections:
        - This reduces the regulatory burden on financial institutions and averts duplication of efforts and wastage of resources.

(iii) National Drug Law Enforcement Agency (NDLEA)

- Drug trafficking is a transnational crime known over time as a catalyst to other heinous crimes such as terrorism. Proceeds from the illicit drug trade have played a significant role in fuelling conflicts around the globe.
- The effectiveness of assets forfeiture as a drug law enforcement tool is well recognized by Nigeria.
- To this extent, the principal legislation on drug trafficking and abuse in Nigeria has made the forfeiture of properties acquired by drug convicts an integral part of our counter-narcotics efforts.
- The Agency, in collaboration with other stakeholders including the EFCC, is vigorously enforcing the provision of the Money Laundering Act.

- In line with inter-agency collaboration, the Agency transferred five cases to EFCC for further action (as the preliminary investigation did not link such cases with drug-related offences).
- Under the international cooperation against illicit drug trafficking and laundering of drug money (tagged mutual legal assistance), the Agency participated in seven different cases involving the Government of the United Kingdom, the Government of the United States of America, the Government of South Africa and the German authority.

(iv) Economic and Financial Crimes Commission (EFCC)

Below is a summary of assets frozen/terrorism cases prosecuted by the EFCC:

S/No	*Parties/Charge No*	*Court/date filed*	*Nature of the case*	*Cash/assets recovered*	*Remarks*
1	FHC/KD/7c/05 FRN VS. LUCKY ATTERER E & 3 OTHERS	Federal High Court, Kaduna, 2005	The convicts were charged on 21/10/05 and tried on two-count charge of terrorism under section 15(2) of the EFCC Act, 2004 for abducting two expatriate oil workers and demanding for 50 million Naira ransom.		Accused persons were convicted and sentenced to three years imprisonment without an option of fine.
2	FHC/ABJ/CS/90/06 NASCO VS. STATE	Federal High Court, Abuja, 2006	Suspect was charged for financing of terrorism.	Interim forfeiture/asset freeze	Accused later released for lack of evidence.
3	FHC/KD	Federal High Court, Kaduna, 2007	Some young men stormed Agip Platform with terrorism motive.		The accused persons were convicted in this case.
4	FHC/KD/119c/04 FRN VS. JOSHUA MAC'IVER	FHC, KD 2005	The suspects were charged under section 15(2) of EFCC Act, 2004 for the offence of terrorism. The convict along with others, who are now dead, about 4th of October, 2004 armed themselves with military rifles, wore military camouflages and attempted to attack an Agip Oil Flow Station at Tabidaba, Delta State. Their intention was to overrun the place and coerce Agip to enter into a memorandum of understanding with their community to provide social facilities for them.		The accused was convicted and sentenced to 10 years imprisonment without option of fine.

(c) Arms Embargo

The institutions responsible for monitoring and implementing the arms embargo are the Ministry of Justice, the Nigeria Police Force, the Nigeria Customs Service, the Nigeria Security and Civil Defence Corps and the Department of State services.

(i) Federal Ministry of Justice (FMJ)

- Nigeria has ratified the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms and their Parts and Components and Ammunition, supplementing the United Nations Convention Against Transnational Organized Crime (2001).
- Section 78 of the Criminal Code deals with smuggling or rescuing of goods under arms. Section 79 provides against [illegible]gling of arms under disguise, while Section 80 relates to being armed so as to cause terror to any person.
- Section 8 of the Public Order Act prohibits the use of offensive weapons at meetings and processions. Section 428 prescribes punishment for unlawful possession of arms belonging to the Army or Police Force.
- The Firearms Act also regulates the possession and use of arms.
- The Explosives Act empowers the minister responsible for explosives to make regulations expedient for the purpose of maintaining and securing public safety.
- The regulations referred to above include provisions with respect to the import of explosives into Nigeria, the manufacture, storage, transportation or use of explosives, the ownership or possession of explosives, the seizure of explosives in respect of which an offence is alleged to have been committed and the forfeiture of explosives in respect of which such an offence has been committed.

(ii) Nigeria Police Force (NPF)

- The Force Armament Office is a unit attached to the "B" Department Operations of the Nigeria Police Force.
- Its main task is to maintain a database on issues relating to arms embargo and related matters.
- The unit disseminates information to the counter-terrorism squad and other police departments which respond spontaneously.

(iii) Nigeria Customs Service (NCS)

In order to curb the smuggling of arms and ammunition into the country, the NCS has restructured the country into four operational zones, ensuring that each of these zones are manned, especially at the nation's airports, sea and land borders, by Crack Customs Patrol units — code-named Federal Operation Units [FOU].

In addition to the command structures on the ground, Joint Border Patrol Units and Air Patrol Units have been established to work on a 24-hour basis to combat smuggling, transborder organized crimes, local production of arms, use

of dual-purpose equipment, use of foreign specialists and unlicensed production, and in order to cooperate with other States.

In checking the smuggling of arms and ammunitions and other weapons which could be used for violent purposes, the NCS has put in place the following measures:

a. Examination of 100 per cent of containers with the aim of detecting concealed weapons and this has yielded great results.

b. Recently, a forty-foot container declared to be carrying personal effects was detected to be carrying arms and ammunitions, including AK-47 rifles, pump-action guns, live cartridges and blank shells. One arrest was made. The suspect and container of arms were handed over to the police for further investigation and prosecution.

Efforts have been made to trace the source of supply of the seized arms.

c. From January 2009 to date, seizures made in the following commands are stated below:

- Apapa Port: 400 expended shells; 549 empty shells; 5,200 bullet lead heads; 25 assorted tools to aid in ammunition assembly and 30 tools for firearms cleaning.
- Sokoto Command: 31 units of arms comprising 14 units of single-barrel rifles; 10 units of double-barrel rifles; and 7 units of pump-action rifles.
- Federal Operations Unit [FOU] Zone "A", Ikeja, Lagos: 190 units of magnum automatic pump-action guns.

(iv) Nigeria Security and Civil Defence Corps (NSCDC)

Section 4 of the NSCDC Act, 2007 (as amended) defines acts of terrorism and particularly subsection (iv), inter alia, states that "the manufacture, possession, requisition, requisition of weapons, explosives of nuclear, biological or chemical effect without lawful authority" amount to terrorist acts.

Section 3(h) states that "the NSCDC shall monitor, investigate and take every necessary step to forestall any planned act of terrorism".

In the light of the foregoing, the Nigeria Security and Civil Defence Corps Counter Terrorism Unit has been actively involved in enforcing the arms embargo. It has reported issues of arms syndicates and local arms manufacturers to the federal Government authorities responsible.

The Corps has also established the Anti-Vandalization Department to arrest vandalizers who use such instruments in vandalization of oil pipelines, PHCN, telecommunications lines and other federal, State and local government infrastructures.

The Corps Anti-Vandalization Department has, from 2005 to date, arrested over 2,819 suspected persons who specialize in vandalizing petroleum pipelines, PHCN equipment and telecom cables with different types of instruments, sometimes, with arms and where it was conclusive that proceeds

from such illegal activities were deployed for militia activities and purchase of arms and ammunitions.

Most of the suspects arrested are handed over to security agencies such as the EFCC and the police for prosecution. However, in view of the provisions of the Act, as amended in 2007, legal officers from the office of the Attorney General of the Federation have started prosecuting suspects arrested by the Corps.

The Corps has successfully secured seven convictions for cases of vandalization which are within the bracket of terrorist acts, while 25 of such cases are pending in different courts of the federation. None of the cases reported was on the Consolidated List.

The Corps has also actively and effectively participated in the efforts to counter terrorism by establishing a unit for counter-terrorism and training staff at the International Security Academy in Herzilliyah, Israel. The second batch of staff is at Galilee College in Israel, undergoing a course on national security and counter-terrorism, capacity-building, gathering and sharing of intelligence, participating and focusing on terrorism activities and countering terrorism.

(v) Department of State Services (DSS)

The DSS is engaged in proactive intelligence-gathering aimed at prevention and detection of arms smuggling and the proliferation of small and light arms in the country.

In collaboration with the police, the service vets persons seeking the issuance of licences for private firearms for self-protection as well as companies intending to operate firearms businesses in Nigeria. The vetting is done with reference to the Consolidated List, even though such arms are not prohibited firearms.

(d) Travel Ban

The institutions that enforce the travel ban are the Federal Ministry of Justice, Ministry of Foreign Affairs, Department of State Services and Defence Intelligence Agency.

(i) Federal Ministry of Justice

The Constitution of the Federal Republic of Nigeria (1999) states that:

> "Every citizen of Nigeria is entitled to move freely throughout Nigeria and reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto or exit therefrom" (sect. 41(1)).

Subsection 2, however, provides that restrictions can be imposed on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria.

A person can be removed from Nigeria to any other country to be tried outside Nigeria for any criminal offence or to undergo imprisonment outside Nigeria in the execution of the sentence of a court of law in respect of a criminal offence of which he has been found guilty.

The Immigration Act is the main legislation regulating movement of persons entering or leaving Nigeria (sect. 1(1)). The Act is a law of the National Assembly binding on all who enter or leave Nigeria. It is implemented by the Nigeria Immigration Service, an agency under the Ministry of Interior.

Immigration officials man the borders and control movement in and out of Nigeria through the land, airports and seaports to ensure compliance with immigration laws. The officers ensure that anyone intending to leave or enter Nigeria meet the appropriate requirements by possessing proper travel documents. Some of these requirements include the procurement of visas and valid passports.

A register is established for each State of the Federation with a senior immigration officer for the purpose of enforcing the regulation.

The senior immigration officer (also known as the aliens officer) is mandated to maintain a register for identification of all aliens resident in Nigeria and furnish the Director of Immigration with copies of entries for the purpose of creating a registry for the control of aliens, among other things.

There are also other laws of the National Assembly and bilateral treaties that empower enforcement agencies. The offences, which are set forth in numerous international conventions and protocols relating to terrorism, include extraditable offences in bilateral treaties to which Nigeria is a party.

Nigeria has an Extradition Act which is used to deny safe haven to terrorists. Sections 1 and 4(14) of the Act are relevant in this regard.

Illegal acts committed under section 35 of the NDLEA Act are also extraditable offences.

Further to that, the implementation of Mutual Assistance in Criminal Matter Act has given rise to mutual legal assistance treaties with the international community. Nigerian agencies set up to fight crime cooperate with other countries by sharing and exchanging intelligence.

Nigeria has entered into numerous bilateral agreements on extradition and mutual legal assistance in criminal matters with various countries. They include the United Kingdom, South Africa, the United States of America, Togo, Ghana, the Republic of Benin and Italy.

The NFIU also provide for mutual legal assistance through the Egmont Group of financial intelligence units across the globe.

(ii) Ministry of Foreign Affairs (MFA)

The Ministry of Foreign Affairs, through its foreign missions, denies visas to persons who are under travel bans to Nigeria and advises the Immigration Service to ban persons involved in terrorist acts in order to prevent them escaping justice.

(iii) Department of State Services (DSS)

The DSS maintains a watch list (incorporated Consolidated List) at travel control posts with the intention of arresting, detaining and confiscating travel

documents of individuals or groups suspected to have any link with terrorist groups.

(iv) Defence Intelligence Agency (DIA)

The Armed Forces commitment to combating terrorism is in the areas of training and capacity-building. To this end, the following training of troops has been conducted:

a. Special Operations on Combating Terrorism-Mobile Education Team (MET) was held from 14 to 18 September 2009 in Ghana — organized by the Government of the United States.

b. Special Forces Course (Counter Terrorist Unit 09/01) organized for members of the Armed Forces by the American Training Team, held at the Nigerian Army School of Infantry, Jaji, from 23 March to 30 April 2009.

c. Advanced Joint Combined Exercise for Training (JCET), opportunities with the United States of America held from 15 August to 8 September 2009 at the Nigerian Army School of Infantry, Jaji.

d. Training of Nigeria Army Special Forces Personnel by the Indian Army Training Team was held from 16 March to 10 April 2009 at 72 Battalion, Makurdi.

e. Seminar on Domestic Terrorism in Africa conducted on 19 and 20 May 2007 in Cairo.

f. Seminar on Domestic Terrorism in Africa held on 20 and 21 August 2007 in Abuja.

g. Trans-Sahara Counter Terrorism Topical Seminar held from 19 to 24 February 2006 in Algiers.

h. Training on security enforcement and money-laundering terrorism financing was held in the Gambia from 6 to 10 July 2009. It was sponsored by the Centre of Excellence Defence against Terrorism of Turkey.

(e) The Boko Haram Group

The Boko Haram is an extremist group that has no ties with Al-Qaida. It was dislodged by the law enforcement agencies, though not defeated. No member of this group is on the Consolidated List. In order to ensure that there is no meeting point for terrorist elements around the world with members of the group, the following measures have been put in place:

- De-radicalization
- Perception management and sensitization
- Arrest, detention and rehabilitation of radicalized elements and release back into society of the de-radicalized elements
- Reach out exercises with other stakeholders.

(f) The Draft Prevention of Terrorism Bill

The Prevention of Terrorism Bill, 2009 seeks to criminalize and punish all acts of terrorism, terrorists and their associates. The Bill clearly defines and prohibits all

acts of terrorism and its support. It makes any violation of the provisions of the Bill an offence and prescribes penalties for such violations.

The Bill further makes provision for listing and de-listing, freezing of funds and financial assets of terrorists and terrorist groups and prevention of their entry into or transit in Nigeria. It also prohibits the direct or indirect supply, sale and transfer of arms, weapons, ammunitions and other related equipment to terrorists.

Other provisions include the suppression of the financing of international terrorism, terrorist funding, hostage-taking, the seizure of terrorist cash and property, obligation to report suspicious transactions relating to terrorism, property-tracking, mutual assistance, extradition, investigation, detention and prosecution for offences of terrorism.

The procedures for search, arrest, detention, investigation, prosecution and other methods for combating the offence of terrorism under this Bill will be carried out in accordance with legal procedures through a court of law and with due respect for human rights of the suspects.

It makes provision for the protection of witnesses in the prosecution of any terrorist for an offence committed in relation to this Bill. All the United Nations conventions on counter-terrorism have been incorporated into the Bill.

The determination and efforts of the Government of Nigeria in the fight against terrorism are evidenced from the foregoing. The above-mentioned Bill was currently amended to meet with international standards and subsequently sent back to the National Assembly. The Bill is comprehensive and will provide a veritable tool for the prosecution of terrorism offences in Nigeria when it is eventually enacted into law. It should be noted that the provisions of this bill are in various acts of the Federation.

Conclusion

Finally, Nigeria condemns terrorism in all its forms and manifestations and reiterates its determination to wipe out the menace.

In furtherance of the above, Nigeria has signed and ratified the various United Nations and African Union instruments against terrorism. The establishment of the National Focal Point is an achievement in this direction. The role of the Focal Point has helped to ensure collaboration and coordination among the various ministries, departments and agencies involved in the fight against terrorism.

United Nations S/AC.37/2009/(1455)/5

Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 25 August 2009 from the Permanent Mission of Antigua and Barbuda to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Antigua and Barbuda to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and has the honour to submit to the Committee the national report of Antigua and Barbuda, pursuant to paragraph 6 of Security Council resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 25 August 2009 from the Permanent Mission of Antigua and Barbuda to the United Nations addressed to the Chairman of the Committee

Report of Antigua and Barbuda on implementation of Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

The economy of Antigua and Barbuda is heavily dependent upon tourism, so any terrorist incident in this country or even in the Caribbean region could have a devastating effect. The decline in tourism after the attacks of September 2001 and the impact upon tourism in Bali of the bombings demonstrate the potentially devastating economic consequences of terrorism. To date, no activities of Osama bin Laden, Al-Qaida or Taliban members have been detected. This is not surprising in view of the country's small size. However, the potentially devastating consequences of a terrorist incident in the Caribbean are certainly appreciated. Potential trends obviously depend in large part upon the intentions of the named groups.

II. Consolidated List

(To be circulated to Member States every three months.)
www.un.org/Docs/sc/committees/1267/1267ListEng.htm

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

Legislative provision in relation to the freezing of funds used for terrorist financing is to be found mainly in the Prevention of Terrorism Act (POTA) of 2005, which criminalizes terrorist acts and the financing of terrorism. Lists of terrorists gazetted under the repealed PTA 2001 continue in effect until revoked. These lists include the Consolidated List issued by the United Nations Security Council. Article 39 of POTA refers to the Regional Security System arrangement for checking passenger lists and passports against multiple databases, including the 1267 Consolidated List, which effectively serves to control both transit and visitor travel.

Article 4 (l) of POTA provides a general mechanism for the implementation of the resolution 1267 (1999). Article 4 (l) of POTA also gives legal effect to resolutions adopted under Article 41 of the Charter of the United Nations and to any order issued by the Minister for Foreign Affairs in Antigua and Barbuda, pursuant to that law. As concerns satisfying the requirement of resolution 1267 (1999) that requires Member States to implement without delay measures to freeze and seize terrorist-related funds and other assets in accordance with United Nations Al-Qaida and Taliban sanctions, there is no specific reference in POTA to freezing and seizure being done without delay. Specifically, the Minister for Foreign Affairs in Antigua and Barbuda is permitted to obtain an order designating an entity as a specified

entity and, based on that order, the Attorney General may exercise his power to direct financial institutions to freeze any account or property that is held on behalf of the specified entity.

The Attorney General is the person authorized by the Act to declare persons or groups to be terrorists. Upon being informed by the Commissioner of Police or the Director of the Office of National Drug and Money Laundering Control Policy (ONDCP) that there are reasonable grounds to suspect that an entity has engaged in terrorist acts, the Attorney General may, by order pursuant to article 3 (2) of POTA, declare the entity to be a "specified entity". As a result, resolution 1373 (2001) is dealt with by article 3 (2) of POTA, which allows the designation of "specified entity" to an entity suspected of committing, attempting to commit, participating in or facilitating a terrorist act, or having acted on behalf of, at the direction of, or in association with such an entity. Law enforcement authorities in Antigua and Barbuda also have the power to freeze and seize in this regard and there is no requirement for notification to the specified entity. In relation to seizures, the Commissioner of Police and the Director of ONDCP may exercise their powers whether or not proceedings have been instituted for an offence in respect of the funds or other assets. However, these authorities must, as soon as practicable after the seizure, apply to the Court for a detention order.

ONDCP is the agency responsible for money-laundering, terrorist financing and illegal drugs intelligence and investigations. ONDCP is a member of the Egmont Group. The Director of ONDCP, in his capacity as the Supervisory Authority, has access to financial, administrative, and law enforcement information. The Supervisory Authority or a law enforcement agency or police officer has the authority to obtain production orders, search and seizure warrants and restraint orders. In spite of all this, there have been no investigations to date involving financing of terrorism.

Under ONDCP, there is the Financial Investigations Unit (FIU), the Drugs Intelligence Unit, the Targeting and Strike Team and the National Joint Coordination Centre. The functions of the FIU, within ONDCP, include the receipt analysis and dissemination of Suspicious Activity Reports (SARs) or Suspicions Transactions Reports (STRs). Dissemination occurs through the Supervisory Authority. SARs are also required to be filed with the Commissioner of Police or the Director of ONDCP where there is a suspicion of financing of terrorism. To date, some members of the Royal Police Force of Antigua and Barbuda, the Antigua and Barbuda Customs and Excise Division and the Antigua and Barbuda Coast Guard have received training in the financing of terrorism from REDTRAC but more personnel from these governmental agencies need additional training. In addition, immigration officers from the Antigua and Barbuda Immigration Department and personnel from the Office of the Director of Public Prosecution (DPP) need more training on the financing of terrorism.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

No implementation.

4. Have your authorities indentified inside your territory and designated individuals or entities? If so, please outline the actions that have been taken.

No.

5. Please submit to the Committee, to the extent possible, the names of the individuals or entities associated with Osama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations of enforcement actions.

None.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

None.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

Articles 11-20 of POTA contain various measures to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside Antigua and Barbuda and to prevent individuals from participating in Al-Qaida training camps established in our territory or in another country. Specifically under POTA, article 11 covers the harbouring of persons committing terrorist acts; article 12 addresses the provision of weapons to terrorist groups; article 13 addresses the issue of recruitment of persons to be members of terrorist groups or to participate in terrorist acts; article 14 covers the issue of provision of training and instruction to terrorist groups and persons committing terrorist acts; article 15 addresses the issue of promotion or facilitation of the commission of terrorist acts in foreign States; article 16 indicates the level of penalty for the various offences committed in article 15; article 17 covers the issue of conspiracy to commit offences under this Act; article 18 addresses the issue of membership of terrorist groups; article 19 addresses the issue of arrangements of meetings in support of terrorist groups; and article 20 covers the issue of participation in the commission of offences under this Act.

The Government of Antigua and Barbuda recognizes the need for law enforcement authorities to cooperate and coordinate with each other. Accordingly, ONDCP has a memorandum of understanding with the Financial Services Regulatory Commission (FSRC) and a multilateral agency memorandum of understanding with the Royal Police Force of Antigua and Barbuda, the Antigua and Barbuda Customs and Excise Division, the Antigua and Barbuda Immigration Department and the Antigua and Barbuda Defence Force (ABDF). However,

Antigua and Barbuda does not have any permanent or temporary groups specialized in investigating the proceeds of crime. Specialized groups are formed on an ad hoc basis as the need arises. As a result, contact among law enforcement authorities is maintained in an ad hoc manner as there are no systems in place that allow them to interface in a structured and systematic way. The Royal Police Force of Antigua and Barbuda dedicates resources in a Special Branch. This Branch is responsible for identifying potential terrorist-related activity within the community and for intelligence exchanges with foreign counter-terrorism partners, which includes liaising with INTERPOL National Central Bureaux.

In addition, according to ONDCP, the Ministry of Legal Affairs in Antigua and Barbuda is responsible for seizure, freezing and confiscation of the proceeds of crime. The Supervisory Authority or a law enforcement agency or police officer has the authority to obtain production orders, search and seizure warrants and restraint orders. In spite of all this, there have been no investigations to date involving financing of terrorism. In relation to seizures, the Commissioner of Police and the Director of ONDCP may exercise their powers whether or not proceedings have been instituted for an offence in respect of the funds or other assets. These latter authorities, though, must as soon as practicable after the seizure, apply to the Court for a detention order.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

NOTE: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.[1]

9. Please describe briefly:

- **The domestic legal basis to implement the asset freeze required by the resolutions above**
- **Any impediments under your domestic law in this context and steps taken to address them.**

Legislative provision in relation to the freezing of funds used for terrorist financing is to be found mainly in PTA. Antigua and Barbuda has, under section 4(1) of POTA, provided a general mechanism for the implementation of Security Council resolution measures. The Minister for Foreign Affairs may, by order published in the Gazette, make such provision as appears to the Minister to be necessary or expedient to effectively apply those measures. Lists of terrorists

[1] From the International Convention for the Suppression of the Financing of Terrorism, 1999.

gazetted under the repealed PTA 2001 continue in effect until revoked. These lists include the Consolidated List issued by the United Nations Security Council. Where the Minister for Foreign Affairs makes an order under section 4(1) to the effect that there are reasonable grounds to suspect that an entity specified in the order is engaged in terrorist activity, upon the order being made, the entity is deemed to be a specified entity.

Section 4(2) provides that, based on such an order, the Attorney General may exercise his power to direct financial institutions to freeze any account or other property held by the financial institutions on behalf of the specified entity. The Minister's powers under sections 4(1) and 4(2) of POTA may apply to give effect to resolution 1267 (1999) in respect of persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee. The Antigua and Barbuda Authorities informed the Examiners that no entity to date has been declared a specific entity and the procedures employed in relation to measures taken in respect of a specified entity are at this stage untested. Specifically, as concerns satisfying the requirement of resolution 1267 (1999) obligating a country to implement without delay measures to freeze and seize terrorist-related funds and other assets in accordance with United Nations Al-Qaida and Taliban sanctions, there is no specific reference in POTA to freezing and seizure being done without delay. However, it is instructive that intermediate steps, such as first applying to the Court for a declaration that an order be made before funds or other property can be seized or frozen, are not stipulated under POTA. In relation to seizures, the Commissioner of Police and the Director of ONDCP may exercise their powers whether or not proceedings have been instituted for an offence in respect of the funds or other assets. These latter authorities must, as soon as practicable after the seizure, apply to the Court for a detention order.

The Attorney General is the person authorized by POTA to declare persons or groups to be terrorists. Upon being informed by the Commissioner of Police or the Director of ONDCP that there are reasonable grounds to suspect that an entity has engaged in terrorist acts, the Attorney General may, by order pursuant to section 3(2) of POTA, declare the entity to be a "specified entity". Section 3(2) also provides for the Attorney General to direct financial institutions to freeze any account or other property held by the financial institution by or on behalf of the specified entity. There is no requirement for notification to the specified entity at that point. The order has to be gazetted within seven (7) days. Security Council resolution 1373 (2001) addresses the implementation of measures to freeze and seize terrorist-related funds and other assets of persons (including other persons acting on their behalf) who commit, attempt to commit, participate in or facilitate the commission of terrorist acts. Section 3(2) of POTA extends the designation of "specified entity" to an entity suspected of committing, attempting to commit, participating in or facilitating a terrorist act, or having acted on behalf of, at the direction of, or in association with such an entity. The powers of freezing and seizure conferred on the law enforcement authorities above also apply in this regard. It is submitted that, although there must first be reasonable grounds upon which the Attorney General can act before he issues the directive to have the funds or other assets frozen, or the Commissioner of Police of the Director of ONDCP seize property pursuant to sections 25 and 35 of POTA, the determination of there being reasonable grounds does not negatively affect the issue whether or not the authorities have acted without delay in actually freezing the funds or other assets.

Where requests concerning terrorist offences not involving money-laundering are made to a relevant authority in Antigua and Barbuda, it is likely that assistance will be rendered pursuant to section 31(1) or 31(2) of POTA on the basis of a counter-terrorism convention. Part VI of POTA is dedicated to information-sharing, extradition and mutual assistance in criminal matters related to terrorist acts.

POTA is silent as to what may constitute "funds" or "assets" for the purposes of resolutions 1267 (1999) and 1373 (2001). A definition of "property" is given and the term "includes money, securities and any movable or immovable property wherever located". "Terrorist property" is also defined and it refers to property which has been, is being, or is likely to be used by a terrorist group and to property which is owned or controlled by or on behalf of a terrorist group. The argument is made that financial institutions and the competent authorities will freeze or seize any property that can be linked to the terrorist activity. While the Court may be inclined to construe all of the terms widely to bring perpetrators of offences under the Act, the freezing and seizure do not expressly extend to "funds or other assets wholly or jointly owned or controlled directly or indirectly by terrorists", nor do they expressly cover "funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by terrorists" as required by the resolutions. Full compliance with these resolutions as it concerns what may constitute "funds" or "assets" is therefore left to judicial interpretation.

The Attorney General is mandated by section 3(2)(b) of POTA to communicate freezing actions to financial institutions. There are no detailed guidelines governing the procedure which the Attorney General should follow and the measures which will be taken to safeguard that information of the decision to freeze a specified entity's account is not prematurely disclosed. Terrorist financing offences under POTA apply regardless of where the crime was committed. The High Court's jurisdiction to try offences under POTA is stated in section 26 of the Act.

Pursuant to section 26(2), the Court has jurisdiction to try the offence if it is committed in Antigua and Barbuda. For the purposes of section 26(2), a POTA offence committed outside Antigua and Barbuda and which would, if committed in Antigua and Barbuda constitute an offence under POTA, is deemed to have been committed in Antigua and Barbuda. This applies provided that: (i) the person committing the offence is a citizen or resident of Antigua and Barbuda, (ii) the offence is committed to compel the Government of Antigua and Barbuda to do or refrain from doing any act, (iii) the offence is committed against a citizen of Antigua and Barbuda, (iv) the offence is committed against property belonging to the Government of Antigua and Barbuda outside Antigua and Barbuda or (v) the person who commits the offence is present in the jurisdiction. Where the person is not within the jurisdiction, extradition or mutual legal assistance procedures may be relied upon to have the person prosecuted either in Antigua and Barbuda or in the foreign country.

Section 17(1) of POTA makes it an offence to conspire in Antigua and Barbuda to commit a POTA offence outside Antigua and Barbuda. An offence is also committed if a person conspires outside Antigua and Barbuda to commit a POTA offence in Antigua and Barbuda. POTA offences include financing of terrorism offences. POTA offences created under section 9(1), facilitating the acquisition of terrorist property, and section 9(2), knowingly dealing in, acquiring, facilitating, concealing or providing financial or other services in respect of terrorist property

are deemed money-laundering offences. The term "entity" under POTA means "a person, group, trust, partnership, fund or an unincorporated association or organization". "Person" appears to have a wide meaning to include individuals and corporate entities. Offences may therefore be committed by natural and legal persons. There is no provision of law which precludes parallel criminal, civil or administrative proceedings in another country because legal persons are made criminally liable in Antigua and Barbuda. It is usually the practice, however, that the Antigua and Barbuda authorities will render mutual assistance when requested to do so. The collection of property or the provision of financial services for facilitating terrorist acts under section 7 of POTA carries a sentence of twenty-five (25) years.

Lastly, according to ONDCP, the Ministry of Legal Affairs in Antigua and Barbuda is responsible for seizure, freezing and confiscation of the proceeds of crime. The Supervisory Authority or a law enforcement agency or police officer has the authority to obtain production orders, search and seizure warrants and restraint orders. In spite of all this, there have been no investigations to date involving financing of terrorism. In relation to seizures, the Commissioner of Police and the Director of ONDCP may exercise their powers whether or not proceedings have been instituted for an offence in respect of the funds or other assets. These latter authorities though must as soon as practicable after the seizure, apply to the Court for a detention order.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The Government of Antigua and Barbuda recognizes the need for law enforcement authorities to cooperate and coordinate with each other. ONDCP is the agency responsible for money-laundering, terrorist financing and illegal drugs intelligence and investigations. ONDCP is a member of the Egmont Group. The Director of ONDCP, in his capacity as the Supervisory Authority, has access to financial, administrative and law enforcement information. The Supervisory Authority or a law enforcement agency or police officer has the authority to obtain production orders, search and seizure warrants and restraint orders. In spite of all this, there have been no investigations to date involving financing of terrorism.

Under ONDCP, there is the Financial Investigations Unit (FIU), the Drugs Intelligence Unit, the Targeting and Strike Team and the National Joint Coordination Centre. The functions of FIU, within ONDCP, include the receipt, analysis and dissemination of Suspicious Activity Reports (SARs) or Suspicious Transactions Reports (STRs). Dissemination occurs through the Supervisory Authority. SARs are also required to be filed with the Commissioner of Police or the Director of ONDCP where there is a suspicion of financing of terrorism. To date, some members of the Royal Police Force of Antigua and Barbuda, the Antigua and Barbuda Customs and Excise Division and the Antigua and Barbuda Coast Guard have received training in the financing of terrorism from REDTRAC but more personnel from these governmental agencies need additional training. In addition, immigration officers from the Antigua and Barbuda Immigration Department and personnel from the Office of the Director of Public Prosecution (DPP) need more training on the

financing of terrorism. The Royal Police Force of Antigua and Barbuda dedicates resources for identifying potential terrorist-related activity within the community and for intelligence exchanges with foreign counter-terrorism partners, which includes liaising with INTERPOL National Central Bureaux.

In addition, ONDCP has a memorandum of understanding with the Financial Services Regulatory Commission (FSRC) and a multilateral agency memorandum of understanding with the Royal Police Force of Antigua and Barbuda, the Antigua and Barbuda Customs and Excise Division, the Antigua and Barbuda Immigration Department and the Antigua and Barbuda Defence Force (ABDF). Unfortunately, Antigua and Barbuda does not have any permanent or temporary groups specialized in investigating the proceeds of crime. Specialized groups are formed on an ad hoc basis as the need arises. As a result, contact among law enforcement authorities is maintained in an ad hoc manner as there are no systems in place that allow them to interface in a structured and systematic way. Also, there is no effective mechanism that would allow policymakers and the relevant law enforcement and regulatory agencies to coordinate domestically on matters dealing with combating the financing of terrorism.

Lastly, according to ONDCP, the Ministry of Legal Affairs in Antigua and Barbuda is responsible for seizure, freezing and confiscation of the proceeds of crime. The Supervisory Authority or a law enforcement agency or police officer has the authority to obtain production orders, search and seizure warrants and restraint orders. In spite of all this, there have been no investigations to date involving financing of terrorism. In relation to seizures, the Commissioner of Police and the Director of ONDCP may exercise their powers whether or not proceedings have been instituted for an offence in respect of the funds or other assets. These latter authorities must, as soon as practicable after the seizure, apply to the Court for a detention order.

Antigua and Barbuda also has a robust mutual legal assistance regime in criminal matters. Mutual legal assistance in financing of terrorism matters is provided for under the Mutual Assistance in Criminal Matters Act (MACMA), which provides for mutual assistance for all countries that are members of the British Commonwealth and for countries with which Antigua and Barbuda has signed mutual legal assistance treaties (MLATs). In addition, Antigua and Barbuda has also concluded MLATs with the United States of America, the United Kingdom and Canada. There is no legal or practical impediment to rendering assistance where both countries criminalize the conduct underlying an offence. Antigua and Barbuda is also a party to the Inter-American Convention on Mutual Assistance in Criminal Matters and to the Inter-American Convention on Extradition. POTA is also used to seize, freeze and confiscate property used or intended to be used in the commission of a financing of terrorism offence or terrorism assets to be deposited in a Forfeiture Fund. There is also no provision for the sharing of assets confiscated as a result of coordinated law enforcement actions.

Extradition is governed primarily by the Extradition Act of 1993, which contains provisions, including procedures for extradition. With regard to extradition proceedings related to terrorist acts and the financing of terrorism, provision is made under Part VI of POTA. Specifically, under Section 30 of POTA counter-terrorism conventions are used as a basis for extradition, even in cases where there

is no extradition arrangement. The Government of Antigua and Barbuda extradites its nationals.

With regard to other forms of international cooperation, FSRC is not authorized to exchange information with its foreign counterparts.

11. Please convey the step banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements.[2] Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Every financial institution is required to make a report every three (3) months as to whether or not it is in possession of property owned or controlled by or on behalf of a specified entity. The financial institution is required to report to the Director of ONDCP transactions for which there are reasonable grounds to suspect that the transactions are related to the commission of terrorist acts. Reports on terrorist property for submission to the Director of ONDCP are to be made on the form provided in Schedule D of POTA. Failure to comply with the duty to report is an offence and is punishable by imprisonment for a term not exceeding five (5) years. This penalty would not be dissuasive in a case where it is found that a financial institution or an officer intentionally sets out to make secret the existence of terrorist property.

A financial institution is also obligated to monitor the Gazette for changes to the list of declared specified entities and to maintain copies of this list. Upon the declaration or publication in the Gazette of the name of a specified entity, a financial institution should immediately make a check of its records to establish whether or not the specified entity has an account or holds property with the institution. If a match is found, this should be communicated immediately to the Director of ONDCP by the quickest, and arguably most secure, means possible. Transactions in relation to the account or property should not proceed before contact is made and the matter is discussed with the Director of ONDCP. The guidelines are brief. They could, for example, set out acceptable standards of channels of reporting within the financial institution. The reporting of STRs for terrorist activity would be comparable to the reporting regime which exists for money-laundering.

Provision is made under section 3(4) of POTA for a specified entity to apply within ninety (90) days to the Commissioner of Police or the Director of ONDCP, requesting either authority to recommend to the Attorney General the revocation of the order listing it as a specified entity. If the recommendation is made, the Attorney General will be requested to revoke the order. Where the recommendation is not made, the listed entity may apply to a judge for a review of the decision. The judge may direct that the Commissioner of Police or the Director of ONDCP recommend to the Attorney General that the order for de-listing be made. However, it is unclear whether the Attorney General is mandated to carry out the judge's directive, even where the Attorney General believes that the entity should be specified. The Director of ONDCP may from time to time review all orders declaring specified entities. If he determines that there are no longer reasonable grounds for the order to

[2] For details, see third report of the Monitoring Group of 17 December 2002 (S/2002/1338), sect. V, paras. 27-29.

continue, he is required to recommend to the Attorney General that the order be revoked. If the Security Council removes an entity from its list, the Minister for Foreign Affairs, pursuant to his powers under section 4(1) of POTA, may by order published in the Gazette de-list the entity. With the exception of the requirement that the listing and the de-listing of specified entities be gazetted, there is no specific provision which compels authorities to ensure that the procedures for de-listing are publicly known.

On account that an order declaring a person a specified entity may also direct a financial institution to freeze funds or other assets held by or on behalf of the specified entity, the specified entity may apply to have the funds unfrozen in the same manner provided for de-listing. However, in practice it is likely that the provisions of the entire order would be revoked where it is determined that the person should no longer be designated a specified entity. There is no similar provision relating to persons who have been affected inadvertently by a freezing mechanism. Where property is seized under section 35(1) of POTA, the Attorney General may apply to a judge to cancel or vary a warrant or order in respect of the seized property. In the case of a detention order, prior to a destruction order being made, the judge must require notice to be given to any person who appears to have an interest in the property and may provide the person with a reasonable opportunity to be heard.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. The list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen**
- **a description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets)**
- **the value of assets frozen.**

To date, there have been no investigations, prosecutions or convictions in relation to terrorist activity and so the effectiveness of the financing of terrorism regime cannot be assessed.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

None.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by national or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the

movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — hawala, as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003, paragraph 2 (b) of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken, to implement the travel ban.

The following provisions under the Prevention of Terrorism Act are concerned with the legislative measures and also include the administrative measures which are utilized to implement travel bans. Article 39 of POTA refers to the Regional Security System arrangement for checking passenger lists and passports, against multiple databases including the 1267 Consolidated List, which effectively serves to control both transit and visitor travel. Article 40 of POTA grants the power of the Chief Immigration Officer to prevent entry and order the removal of persons.

During the Cricket World Cup in 2007, all Caribbean countries, including Antigua and Barbuda, adopted the United States System of Advanced Passenger Information (API). The headquarters for this system is housed in Barbados and is staffed 24-7 to check API on all methods of travel into Antigua and Barbuda. This system checks current watch lists, national and international and works with various police agencies and intelligence agencies to issue a travel ban for unauthorized persons. To date, this API system is still utilized extensively in Antigua and Barbuda.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

Efforts have been made to include the listed individuals in Antigua and Barbuda's national border checkpoint list which is provided to the Antigua and

Barbuda Immigration Department, the Royal Police Force of Antigua and Barbuda, and the Antigua and Barbuda Customs and Excise Division to ensure that none of the persons on the list have entered Antigua and Barbuda and to ensure that the list is current. The practice is to provide or communicate the revisions to the list to all border points in Antigua and Barbuda as the latest information becomes immediately available.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

Unfortunately, Antigua and Barbuda lacks the necessary human and financial resources to conduct this exercise.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

To date, none on the receiving list has transited Antigua and Barbuda. Using the API system, border points in Antigua and Barbuda, particularly at the VC Bird International Airport, have the capability of searching the list data using the API system, which is the electronic means in which to do so.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the references database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?

None of the suspects has ever been discovered to have applied for a visa in Antigua and Barbuda.

V. Arms embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale or transfer, to Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related material of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

No measures are in place. Antigua and Barbuda does not export nor manufacture such weapons, therefore it is not likely for this country to encounter such.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida

organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

No measures have been put in place yet.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the establishment arms embargo.

Arms licences in Antigua and Barbuda are strictly issued, with the final decision made by the Commissioner of Police of the Royal Police Force of Antigua and Barbuda. However, in the issuing of arms licences, the Commissioner of Police is advised by a National Committee which comprises of representation from the Royal Police Force of Antigua and Barbuda, ONDCP and the Police Service Commission (PSC).

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

Antigua and Barbuda does not manufacture any weapons or ammunition.

VI. Assistance and conclusion

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Antigua and Barbuda has many areas requiring assistance and capacity-building and as a result of these constraints, Antigua and Barbuda is unable to provide assistance to other States to help implement the measures in the above-mentioned resolutions.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

To date, some members of the Royal Police Force of Antigua and Barbuda, the Antigua and Barbuda Customs and Excise Division and the Antigua and Barbuda Coast Guard have received training in the financing of terrorism training from REDTRAC, but more personnel from these governmental agencies need additional training. In addition, immigration officers from the Antigua and Barbuda Immigration Department and personnel from the Office of the Director of Public Prosecution (DPP) need more training on the financing of terrorism. In addition, Antigua and Barbuda needs the necessary human trained personnel and financial resources to implement the measures to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them.

26. Please include any additional information you believe pertinent.

None.